

Virginia Department of Environmental Quality (DEQ) Storage Tank Program Fact Sheet: ASSUMPTION OF LIABILITY (“STEPPING INTO THE SHOES”)

This fact sheet pertains to situations in which an individual or entity wishes to obtain eligibility for reimbursement from the Virginia Petroleum Storage Tank Fund (VPSTF or Fund) for a cleanup occurrence that is the responsibility of another party.

- In some circumstances (usually, real property transfers), a party may wish to complete a petroleum cleanup that is the responsibility of another entity. Typically, the party wishing to complete the cleanup desires access to the Fund for reimbursement of cleanup costs. Two methods may be used to gain Fund access: (1) assignment of payment; or (2) assumption of liability.
- Assignment of payment requires that assignment forms (see the VPSTF Reimbursement Guidance Manual) be submitted with each progress claim for the cleanup. Assignments transfer only the right to payment and do not transfer cleanup liability.
- Assumption of liability allows the party to “step into the shoes” of the responsible person (RP). A party that “steps into the shoes” of the RP assumes the RP’s cleanup liability and obtains the RP’s eligibility to request reimbursement from the Fund for eligible, preapproved, verified, reasonable and necessary costs of cleanup, in excess of the RP’s financial responsibility for the occurrence. Parties that assume liability must provide DEQ with the following signed statement before they begin the cleanup or request reimbursement:

(Name of person assuming liability) assumes all liability for the completion of corrective action from the petroleum/oil contamination associated with PC# ----- and agrees to perform the corrective action in accordance with Virginia DEQ requirements.

- In cases where there is an existing RP, the party assuming liability must provide DEQ with a signed relinquishment from the RP using the following language:

(Responsible person name) is the responsible person for the cleanup of the petroleum/oil release from the (insert tank type) located at (address) and identified as PC #_____. (Responsible person name) quitclaims, assigns and releases all of its rights to reimbursement for the corrective action costs from the Virginia Petroleum Storage Tank Fund associated with PC#_____ to (Name of person assuming liability) and (Responsible person name) has the right to make such quitclaim, assignment and release.

- Persons assuming liability will not be eligible for reimbursement unless the cleanup is performed in accordance with instructions from the DEQ Regional Office and the Reimbursement Guidance Manual. Persons assuming liability are liable for completion of the entire cleanup. RPs also remain liable for the occurrence and if required to re-commence cleanup will be eligible for reinstatement of Fund access.